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October 10, 1996

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Federal Communications Commission
Office of Secretary

Mr. William F. Caton, Acting Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington D.C. 20554

DOCKET FILE COPY ORIGINAL

Re: Public Notice, CC Docket No. 92-105

Dear Mr. Caton:

Enclosed are an original and 11 copies of the Comments of Cincinnati Bell Telephone Company in the above referenced proceeding. A duplicate original of these Comments is also provided. Please date stamp this as acknowledgment of its receipt. Questions regarding these Comments may be directed to Mr. Robert J. Wentz at the above address or by telephone on (513) 397-1248.

Sincerely,

David L. Meier

cc: ITS

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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OCT 10 1996

Federal Communications Commission
Office of Secretary

In the Matter of:)	
The Request of the United States)	
Department of Justice that 311 Be)	CC Docket No. 92-105
Reserved for Non-Emergency)	
Police Telephone Calls)	

COMMENTS OF CINCINNATI BELL TELEPHONE COMPANY

I. Background

On August 26, 1996, the United States Department of Justice ("DOJ") filed a letter with the Federal Communications Commission ("FCC") requesting that an N11 code, specifically 311, be reserved on a national basis for use by local communities for non-emergency police telephone calls. Thereafter, the FCC solicited comments from interested parties on this request from the DOJ. Cincinnati Bell Telephone Company ("CBT"), an independent, mid-sized local exchange carrier, hereby offers the following comments in this proceeding.

II. Comments

CBT offers local exchange service in Ohio, Kentucky and a small portion of Indiana. Accordingly, CBT is regulated by multiple state regulatory bodies.

In November of 1993, the Kentucky Public Service Commission ("PSCK") issued an Order in its Administrative Case No. 343 denying petitions of various companies seeking to have that Commission direct local exchange carriers to assign N11 dialing codes to them for various purposes. A copy of that Order is attached hereto as Exhibit A. In April 1995, the Kentucky Transportation Cabinet ("KTC") requested that the PSCK reopen its Administrative

Case in an effort to have the PSCK approve a process whereby the N11 dialing code 311 would be used for a public service project.

In its 1993 Order, the PSCK had determined that it would not be prudent to allow private parties to exhaust the remaining N11 codes for private gain or commercial ventures. The KTC, however, asserted that it had a project which would provide a valuable public service and was not merely a commercial venture. Pursuant to this request, the PSCK opened Administrative Case No. 343 to address the sole issue of whether CBT should be ordered to allocate 311 to the KTC for its public service project.

The project proposed by the KTC was known as ARTIMIS, an acronym which stands for "Advanced Regional Traffic Interactive Management Information System." As described by the KTC and the developers of the ARTIMIS system, the project would provide "real time" information to motorists seeking information on the status of traffic operations in Northern Kentucky. A similar project had apparently been undertaken in the Boston, Massachusetts area, and the KTC argued that this program would provide a substantial public service to the residents of Kentucky in CBT's operating territory.

In May 1995 the PSCK held a public hearing on the request from the KTC. At that hearing, CBT acknowledged that the plan advanced by the KTC had more of a public purpose than the purely commercial ventures which had formed the basis of prior requests for N11 dialing codes. CBT went on, however, to question whether this particular public project warranted the use of an admittedly scarce public resource. CBT contended that the use of a standard seven digit dialing code, such as 333-3333, would serve the same purpose

of having a number easy to remember but which would not consume one of the six remaining N11 dialing codes.

At the hearing held before the PSCK, BellSouth Communications presented a witness who testified that his company was currently offering N11 services in five states on either a trial or permanent basis. The number 311 was being used in the State of Georgia in a commercial venture, but CBT is not aware of the current status of that use. Other applications of N11 dialing codes included news organizations, sports information providers, or stock quotations. Accordingly, there were a number of localized uses of abbreviated dialing systems such as 311 that were, and presumably still are, in operation.

On June 21, 1995, the PSCK issued its Order in Administrative Case No. 343 granting, on a temporary basis, the request by the KTC. In its Order, which is attached hereto as Exhibit B, the PSCK stated as follows:

Allocation of N11 numbers is in the best interest of Kentucky when it provides citizens of Kentucky with improved quality or quantity of service. While this project [ARTIMIS] will not serve all the citizens of Kentucky, the public purpose is significant enough that KYTC's project meets this standard and should be approved on an experimental or trial basis. Further, it should be clearly understood that KYTC's use of N11 dialing code "311" shall be strictly limited to the "public service project" called ARTIMIS.

Pursuant to this finding, CBT was directed to assign the 311 dialing code to the Transportation Cabinet for a period of two years. Thereafter, CBT entered into a contract with the KTC governing the use of 311 for this trial period which expires in June, 1997.

CBT contends that there is a high threshold which should be overcome before an abbreviated dialing code is approved for use in either a public or private venture. In its June, 1995 Order, the PSCK acknowledged that "N11 is a scarce public resource." As

stated at the hearing, CBT has received requests in the past for abbreviated dialing codes from information service providers, but CBT has denied such requests. The request from the KTC was the first such request that came from a public entity, but even then CBT had some doubt as to whether the high threshold had been overcome.

CBT believes that requests for abbreviated dialing codes, such as 311, must be measured against a very high standard in order to satisfy the "public benefit" requirement. Clearly, the "911" emergency dialing code satisfies that requirement and has been implemented on a nationwide basis. CBT submits that the request by DOJ to establish 311 as the non-emergency dialing code on a nationwide basis approaches this high threshold of a "public good" for the utilization of this admittedly scarce resource. The use of a uniform number to contact local law enforcement agencies for non-emergency assistance would provide a significant benefit to the general public, including those citizens in CBT's operating territory.

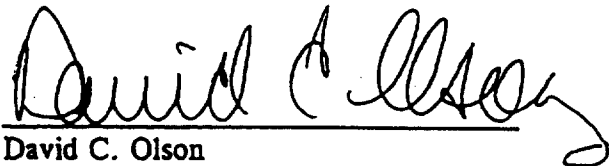
The reason for the high threshold is that current technology requires that an abbreviated dialing code be translated into a standard seven digit number in the central office switches. In each central office, a translation must be programmed into the computer to make the incoming call using the N11 number ring through to the corresponding local law enforcement agency. Such a mechanism is utilized for 911 and would also be needed for 311 calls. Since some of CBT's central offices are not coextensive with the political entities in the Company's operating territory, further translations would have to be programmed into the computer so that the 311 calls are properly routed. CBT anticipates that other local

exchange companies would experience similar problems in the implementation of a national program for the use of 311 as proposed by the DOJ.

III. Conclusion

CBT welcomes this opportunity to provide its comments to the request filed by the DOJ. This proposed use of 311 on a national basis may well satisfy the high public interest threshold that must be met in this case. In order to implement such a national plan, however, the Commonwealth of Kentucky and others will first need to modify the currently authorized usage of 311 and other abbreviated dialing codes.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "David C. Olson", is written over a horizontal line.

David C. Olson
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201 East Fifth Street
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(513) 651-6905
Attorneys for Cincinnati Bell Telephone
Company

Dated: October 10, 1996

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ACTIVE	✓	
343	✓	
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INVESTIGATION INTO THE ASSIGNMENT OF) ADMINISTRATIVE
ABBREVIATED N11 DIALING CODES) CASE NO. 343

INTRODUCTION

C.

BACKGROUND

N11 service is a three-digit dialing arrangement and consists of the numbers 211 through 911, inclusive. The 411 and 911 numbers are traditionally used by LECs to provide services such as directory assistance and emergency service. In some cases 611 and 811 may also be used by LECs to provide services such as TDD and repair. As a result the quantity of N11 numbers available for assignment to other services including commercial ventures is severely limited.

On March 6, 1992, BellSouth Telecommunications, Inc. ("BellSouth"), in response to a request for assignment of a three-digit dialing arrangement, filed a petition asking the Federal Communications Commission ("FCC") for a declaration that the use of N11 codes to obtain access to local pay-per-call information services is consistent with the Communications Act and FCC policies. On May 6, 1992, a Notice of Proposed Rulemaking ("NPRM") was released by the FCC.¹ The NPRM tentatively concluded the FCC should adopt rules to govern the use of certain N11 codes and invited comments. At the same time the FCC's General Counsel informed BellSouth that no regulatory or legal impediment prohibited BellSouth from assigning N11 codes in a reasonable, nondiscriminatory manner. However, he cautioned that the assignment was subject to the FCC proceeding and that parties

¹ The Use of N11 Codes and Other 92-105 Abbreviated Dialing Arrangements, Notice of Proposed Rulemaking, CC Docket No. 92-105, 7FCCRC D10 (1992).

accepting number assignments would do so at their own risk. As a part of the NPRM, the FCC stated that 411 and 911 should continue to be reserved for directory assistance and emergency services; that 211, 311, 511, 711 should be available for commercial use; and that 611 and 811 should also be available where not otherwise assigned. Subsequently, BellSouth N11 tariff filings in Florida and Georgia were accepted on a trial basis to obtain information relating to practical experience with N11 service. Neither the FCC proceeding nor the trials have been completed at this time.

The petitions raise the following issues:

1. a. Does the Commission have jurisdiction over N11 dialing codes and therefore have authority to order LECs to allocate them?

b. If authority does exist, should the Commission proceed or hold the petitions in abeyance until the conclusion of the FCC's investigation?

2. If the Commission chooses to proceed, is allocation of N11 dialing codes in the public interest? The public interest issue is framed in the context of promoting competition in the telecommunications industry. Should scarce, public resources be available for private commercial ventures?

3. If found to be in the public interest, how should N11 dialing codes be allocated and should LECs be ordered or permitted to allocate N11 codes?

DISCUSSION

None of the parties to this proceeding dispute the opinion set forth by FCC counsel or the Commission's authority to order allocation of N11 dialing arrangements.²

The Commission finds that it has jurisdiction over the assignment of N11 dialing codes and based upon this finding will proceed to consider issues relating to allocation.

FCC Investigation

Infodial's witness testified that the Commission should not delay action until the FCC decides the issues in its rulemaking.

[t]he N11 Rulemaking is unlikely to render this proceeding moot. If the FCC adopts its rules as proposed and mandates the availability of N11 codes, then this proceeding still will be necessary in order to determine the terms and conditions under which they are offered for intrastate service. If the FCC adopts no rules, then this proceeding will be necessary in order to determine whether the Commission on its own authority should require LECs to offer N11 service.³

BellSouth Telecommunications, Inc., d/b/a South Central Bell Telephone Company ("South Central Bell") concurs but AT&T Communications of the South Central States, Inc. ("AT&T") recommends holding the petition in abeyance in order to avoid duplication of efforts by the parties.

Some overlapping of decisions made in this proceeding and those reached at the federal level may occur. However, it is clear that this proceeding and some of the issues presented here will

² NPRM, Supra.

³ Pre-filed Testimony of Richard S. Bell, at page 9.

have to be addressed regardless of the outcome of the FCC proceeding. Therefore, the Commission will proceed to consider other issues raised in this proceeding.

Public Interest Issues

There is a general consensus among the parties that N11 numbers are a scarce public resource, that alternative dialing arrangements currently allow information providers to make their services available to Kentucky consumers, that approval of Infodial's petition will result in demand exceeding supply, and that N11 dialing arrangements are easy to use and remember. However, this consensus is used to support the arguments of the parties in different ways.

Infodial asserts that N11 numbers will give consumers quick, easily remembered access and make it convenient for consumers to reach and use information services. Infodial submits that knowing how to obtain access to information is almost as important as the information itself. Consumers will easily remember that N11 means information.

However, Infodial does not concede that allocating N11 dialing codes to a few information providers will confer any competitive advantage on those entities receiving the numbers. The company urges the Commission to allocate the codes on a "first-come, first-serve" basis. While acknowledging that all allocation methods including "first-come, first-serve," lottery or auction, are subject to shortcomings, Infodial argues that its method would reward entities with the foresight to file petitions. Further,

Infodial finds alternative dialing arrangements for the provision of information services unsavory and expensive.

South Central Bell generally supports Infodial's petition but requests that the Commission authorize rather than mandate allocation of N11 codes. It also notes that N11 numbering will be expanded in approximately 2 to 3 years resulting in a significant increase in abbreviated dialing arrangements.

All companies opposing the petition agree that entities which do not receive abbreviated dialing codes will be competitively disadvantaged. Also, because N11 dialing codes are scarce, assigning the codes may deny the public potentially more useful applications of this resource. For instance, US Sprint Communications Company ("Sprint") comments that "the Commission is faced with the prospect of conferring a competitive advantage upon a few select companies thereby impeding rather than stimulating the development of a competitive information services market in Kentucky."⁴ AT&T opines that "the resulting unavailability of equally competitive dialing arrangements would present significant disincentives for entry by new competitors into the enhanced services market."⁵ MCI Telecommunications Corporation ("MCI") comments that "it would be an injudicious and unnecessary step to award scarce N11 codes while other marketable alternatives are

⁴ Sprint, written comments filed February 12, 1993, at page 3.

⁵ AT&T, Post-Hearing Brief, at page 3.

available."⁶ Finally, Cincinnati Bell Telephone Company ("CBT") states that "although Infodial casts its request in terms of satisfying the public interest, in reality the request is merely to permit Infodial to realize private gain, while at the same time allowing the dissipation of a scarce public resource."⁷

The Lexington Herald-Leader frames its position in the context of its own situation vis-a-vis the Louisville Courier-Journal. Some circulation areas of the two newspapers overlap and there is keen competition for subscribers. With regard to LECs, the Courier-Journal is headquartered in South Central Bell's territory and the Herald-Leader in GTE South Incorporated and Contel of Kentucky, Inc. d/b/a GTE Kentucky's ("GTE") territory. The Herald-Leader is concerned that the Courier-Journal might have an N11 number and it would not, thereby putting it at a competitive disadvantage in those overlapping circulation areas.

The National Center for Law and Deafness ("NCLD") and Telecommunications for the Deaf, Inc. ("TDI") also filed comments in opposition to the assignment of N11 dialing codes to commercial information service providers pending the outcome of the FCC ruling.⁸

N11 dialing arrangements are obviously easier to remember and easier to use than existing alternative dialing arrangements. Any

⁶ MCI, written comments filed February 11, 1993, at page 5.

⁷ CBT, written comments filed February 11, 1993, at page 3.

⁸ NCLD and TDI, written comments filed October 7, 1993.

customer wishing to obtain access to any service would choose to dial 3 digits in lieu of 7 or more. This clearly presents an opportunity for those few entities which receive an N11 dialing code to gain a significant competitive advantage. The Commission encourages information services such as those provided by information service providers. However, they are currently available to the citizens of Kentucky through alternative dialing arrangements. The Commission also supports the development of viable, sustainable competition in the information service market in Kentucky. In this case that means ensuring a level playing field so that the only impediment to the success of information service providers is their own ingenuity, not regulatory barriers to entry. Allocating N11 dialing codes will not provide the citizens of Kentucky with improved quality or quantity of service and in the long run will have a negative effect on the development of the information services market. Therefore, the Commission finds that allocation of N11 dialing codes is not in the best interests of Kentucky telephone users or information service providers.

N11 is a scarce public resource. It is used by LECs to provide valuable and in some instances, critical services to the public. It is not unreasonable to believe that public needs for N11 dialing codes will increase. Therefore it would not be prudent for the Commission to allow private enterprises to exhaust this scarce public asset for private interest.

Alternative dialing arrangements are currently available through which information service providers can offer their services. In the near future, new dialing plans will result in the availability of a plethora of new abbreviated dialing arrangements. Ordering the allocation of N11 dialing codes or allowing LECs to file tariffs offering the service are not in the public interest at this time.

IT IS HEREBY ORDERED that:

1. The petitions of Infodial, American, and Phoneformation requesting the Commission to order LECs to assign abbreviated N11 dialing codes are denied.

2. The provisions of this Order shall not be construed as authorization for LECs to offer N11 dialing codes as a tariffed service.

Done at Frankfort, Kentucky, this 5th day of November, 1993.

By the Commission

ATTEST:

Susan Hutcherson
Admin. Section Supervisor

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

INVESTIGATION INTO THE ASSIGNMENT OF) ADMINISTRATIVE
ABBREVIATED N11 DIALING CODES) CASE NO. 343

O R D E R

Pursuant to an April 13, 1995 request by the Kentucky Transportation Cabinet ("KYTC"), the Commission has reopened this proceeding.¹ On November 5, 1993, the Commission entered an Order denying the petitions of certain entities that had requested the Commission to order local exchange carriers to assign N11 dialing codes to them. The Commission decided that allocation of the numbers was not in the best interest of Kentucky telephone users or information service providers because allocating N11 dialing codes would not provide the citizens of Kentucky with improved quality or quantity of service and in the long run would have a negative impact on the development of the information services market.² The Commission noted that it would not be prudent to allow private enterprises to exhaust this scarce public asset for private interest.³

¹ KYTC is responsible for implementing a traffic management project in the Cincinnati-Northern Kentucky area. In its request, KYTC asked the Commission to order the assignment of an N11 dialing code, "311," for the project, which is patterned after a telephone information system in Boston. KYTC asserts that the Boston system is weakened by the use of a seven-digit dialing code. Because KYTC seeks to provide the best system possible, it is seeking the assignment of "311."

² Order dated November 5, 1993 at page 8.

³ Id.

Based upon the assertions of KYTC that the service would be valuable to the public and would be generally available and not a mere commercial venture on the part of the information provider, the Commission reopened this proceeding for reconsideration of its Order as applied to public service projects. The sole issue is whether Cincinnati Bell Telephone Company ("Cincinnati Bell") should be ordered to allocate an N11 number to KYTC for its "public service project" called ARTIMIS ("Advanced Regional Traffic Interactive Management Information System").

ARTIMIS is a state-of-the-art traffic management system that relies on the latest technology to provide "real-time" information to motorists. The system is the first of its kind in this part of the United States and will provide a unique traffic operations program in the most congested roadway network in the region.

The project is a partnership between KYTC, the Ohio Department of Transportation ("ODOT"), the Federal Highway Administration ("FHWA"), the Ohio-Kentucky-Indiana Regional Council of Governments ("OKI"), and the city of Cincinnati. The system is designed to provide the Cincinnati-Northern Kentucky Metropolitan Area with accurate up-to-the-minute traffic information to the public, relieve traffic congestion, and improve air quality.

The purpose of ARTIMIS is to provide a centralized system for effective incident detection and management of the freeway system in the Cincinnati-Northern Kentucky area. The primary geographic focus of the ARTIMIS operation is 88 miles of interstate highways and state freeways in the Metropolitan Area.

Beginning June 28, 1995, travelers in the Cincinnati-Northern Kentucky area can dial the temporary SmartRoute Control Center, follow the prompts and receive information on the highway segments that they plan to travel. On October 1, 1996, an extensive network of system monitors and procedures will be in place making it possible to monitor traffic, identify traffic congestion and its cause, provide alternative route information, and take quick corrective action to clear up the congestion.

SmartRoute will eventually transfer its operations into a permanent Control Center. After the transfer, it will have a much more sophisticated and extensive information database for use in providing travel information to callers. Data from an independent evaluation of the SmartRoute Systems shows that its service has the ability to enhance significantly KYTC and ODOT efforts to reduce congestion, to increase mobility, to reduce air pollution, and to improve safety on the highways.

According to KYTC, one of the key components of this system is the ability to use an abbreviated N11 telephone number for simplicity and speed. Three-digit dialing arrangements are easier to remember and use than existing alternative dialing arrangements. However, N11 is a scarce public resource. Consequently, the Commission will not order the allocation of such numbers unless it determines that doing so is in the best interest of Kentucky telephone users or information service providers.

KYTC's determination that road systems need to be improved by using technology instead of construction, concrete and steel, makes

it clear that after implementation of the system, citizens of Kentucky will be provided with improved quality and quantity of service. None of the parties in this proceeding dispute these facts. Their dispute centers around the allocation of an N11 number to KYTC for this project.

Cincinnati Bell states that an N11 number should not be assigned to KYTC because there are policy differences that need to be decided at the federal level. It states that because Cincinnati Bell operates in various jurisdictions--Ohio, Indiana, Kentucky and federal--that it would be better served by a federal ruling.

South Central Bell states that KYTC's goal of achieving national uniformity in the use of an N11 code cannot be reached until the arrival of the next generation of abbreviated dialing, which is approximately 2-3 years away. The next generation will expand the N11 numbering and, thereby, eliminate the current N11 scarcity problem.

KYTC's responded that 1) N11 dialing codes can be introduced to the public at less cost, 2) tourists will have less difficulty when visiting the area, and 3) barriers to usage are reduced because the codes can provide highly mnemonic and universally understood access to travel information. Furthermore, KYTC states that such numbers imply public responsibility or publicly accountable and highly useful information. In addition, they convey public sponsorship and benefit.

Allocation of N11 numbers is in the best interest of Kentucky when it provides citizens of Kentucky with improved quality or

quantity of service. While this project will not serve all the citizens of Kentucky, the public purpose is significant enough that KYTC's project meets this standard and should be approved on an experimental or trial basis. Further, it should be clearly understood that KYTC's use of N11 dialing code "311" shall be strictly limited to the "public service project" called ARTIMIS.

The Commission, being otherwise sufficiently advised, HEREBY ORDERS that:

1. Cincinnati Bell shall assign KYTC an N11 dialing code, "311," for a period of two years, beginning the date of this Order.
2. KYTC's use of N11 dialing code "311" shall be strictly limited to the "public service project" called ARTIMIS.
3. At the end of the two-year period, the Commission will review the purpose and uses made by KYTC and decide whether it should be allowed to retain "311" beyond the initial two-year period.
4. Within 20 days of the date of this Order, Cincinnati Bell shall file a proposed tariff containing the rates and conditions of service for the N11 dialing code.

Done at Frankfort, Kentucky, this 21st day of June, 1995.

By the Commission

ATTEST:


Executive Director